

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DISTRICT

In re: : Case No. 05-74493  
: Chapter 13  
BRADLEY T SMITH : Judge: John E. Hoffman Jr.  
: 341 Date: Tue Dec 13, 2005  
Debtor(s)

CHAPTER 13 TRUSTEE'S OBJECTION TO CONFIRMATION

Now comes Frank M. Pees, Standing Chapter 13 Trustee, and objects to the confirmation of the plan and requests that the Court enter an order denying confirmation for the reasons set forth below and dismissing the case, pursuant to 11 §1307(c)(5).

X 11 U.S.C. §1325(a)(1) - Plan does not comply with all provisions of Chapter 13 of Title 11 and the other applicable provisions of Title 11:

       Debtor(s) failed to appear at the scheduled meeting of creditors.

       Debtor(s) have failed to file a plan.

       Debtor(s)' debts exceed the limits for non-contingent, liquidated, unsecured debt and/or for non-contingent, liquidated, secured debt.

       Plan does not provide for full payment of claims entitled to priority under §507.

       Plan unfairly discriminates with respect to treatment of certain debts.

       Plan takes over 60 months to complete.

       Trustee is unable to accurately determine length.

X Debtor(s) failed to file a complete list of creditors, statement of financial affairs, and schedules including current income and expenses, pursuant to 11 U.S.C. §521.

AMEND G TO DISCLOSE LAND CONTRACT INCLUDING ALL TERMS AND FIGURES. AMEND PLAN TO ADD LANGUAGE THAT TRUSTEE WILL BE PROVIDED WITH NEXT 3 YRS OF PERSONAL AND CORPORATE TAXES.

X Other:

AMEND I TO DISCLOSE NEW EMPLOYMENT INFO AS MR WILL BE A 1099 EMPLOYEE. AMEND J AND PLAN AS NECESSARY INCLUDING INCOME TAX

       11 U.S.C. §1325(a)(3) - Plan has not been proposed in good faith.

X 11 U.S.C. §1325(a)(4) - Plan does not meet the best interest test.

X Trustee is unable to accurately determine best interest as Debtor(s) failed to provide an acceptable appraisal, pursuant to LBR 3015-3(e)(3), and dividend is less than 100% to unsecured creditors.

26 NOTTINGHAM RD

       Trustee is unable to accurately determine best interest as:

☐ 11 U.S.C. 1325(a)(5) - Plan does not provide for lien retention rights for secured creditors and/or interest rate for rejecting secured creditors.

☐ Debtor(s) do not have liability insurance on all vehicles that are driven or as required by any relevant security agreement, pursuant to LBR 3015-3(e)(6).

☒ Debtor(s) do not have insurance on their real estate, pursuant to LBR 3015(e)(6).

PROVIDE VERIFICATION.

☐ Other:

☒ 11 U.S.C. §1325(a)(6) - Plan is not feasible based on income, living expenses, and plan payments.

PROVIDE VERIFICATION THAT 02, 03, AND 04 TAX RETURNS HAVE BEEN FILED.

PROVIDE INCOME PROJECTION.

☐ Debtor(s) failed to tender payments as proposed by the plan.

☐ Other:

☐ 11 U.S.C. §1325(b) - Plan will complete in less than 36 months.

☐ 11 U.S.C. §1325(b) - Plan does not meet disposable income test.

☐ Debtor(s) failed to commit all disposable income to the plan for first 36 months.

☐ Debtor(s) are contributing to a voluntary retirement plan.

☐ Debtor(s) are repaying a voluntary retirement loan.

☐ Debtor(s)' living expenses exceed reasonable amounts.

Pursuant to LBR 3015-2(a), amendments necessary to place the plan in a posture for confirmation must be filed at least three (3) days prior to the hearing on confirmation set for 01/10/2006, unless Debtor(s) has entered into an Agreed Order with the Trustee and so is bound by the terms of that Order.

Further, Trustee notes that:

☐ Debtor(s) failed to attend Debtor Orientation.

☐ Debtor(s)' counsel to add language to Confirmation Order to advise Trustee/Court:

☒ Debtor(s)' counsel to file and serve Motion to Implement Wage Withholding.

☐ Debtor(s)' counsel failed to file a statement of compensation paid, or such statement is not signed pursuant to Federal Rules of Bankruptcy Procedure 9011.

☐ Other:

Therefore, the Trustee prays that confirmation is denied and this case be dismissed for cause pursuant to Section 1307(c)(5).

Respectfully submitted

Date: 12/20/2005

/s/ Frank M. Pees\_\_\_\_\_

Frank M. Pees

Standing Chapter 13 Trustee

130 E. Wilson Bridge Road, #200

Worthington, OH 43085-6300

614-436-6700

ATTORNEY OF RECORD: W MARK JUMP ESQ

TERMS OF PLAN

1. Solvency: **INSOLVENT**
2. Filing date of Petition: **Fri Oct 14, 2005**
3. Confirmation Hearing Date: **Tue Jan 10, 2006**
4. Dividend: **5.00%** Best Interest Dividend: **.00%**

5. PAYMENT SCHEDULE

Payments(1)	258.14	For	REM	Months	Payments(2)	.00	For	0	Months
Payments(3)	.00	For	0	Months	Payments(4)	.00	For	0	Months
Payments(5)	.00	For	0	Months	Payments(6)	.00	For	0	Months

6. Length: **55** Months

7. CREDITORS PAID DIRECT

Mortgage:  
Mortgage:  
Mortgage:

CONDUIT PAYMENTS

Mortgage:	Payment:	.00
Mortgage:	Payment:	.00
Mortgage:	Payment:	.00

8. Attorney Fees: **1,500.00** Paid: **750.00** Balance Due **750.00**
9. Motion for Wage Withholding: **DIRECT**
10. Special Provisions:

11. Debtor's Counsel to add language to Confirmation Order to Advise Trustee/Court of the following:

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

In Re: BRADLEY T SMITH  
26 NOTTINGHAM RD  
COLUMBUS OH 43214

Case No. 2-05-74493

Judge: HOFFMAN

Chapter 13

SSN(S) XXX-XX-6249  
XXX-XX-0000

CERTIFICATE OF SERVICE

The undersigned certifies that on the date shown below a copy of the Trustee's Objection to Confirmation was served electronically on the Office of the United States Trustee and debtor(s) attorney, and on the debtor(s) at the address as currently shown in the Trustee's records and by regular first class mail, postage prepaid.

December 20, 2005

Names and Full Addresses  
of Parties Served

OFFICE OF THE UNITED STATES TRUSTEE  
170 N. HIGH STREET #200  
COLUMBUS, OHIO 43215

W MARK JUMP ESQ  
2130 ARLINGTON AVE  
COLUMBUS OH

BRADLEY T SMITH  
26 NOTTINGHAM RD  
COLUMBUS OH 43214

\s\ Frank M. Pees \_\_\_\_\_  
Frank M. Pees  
Chapter 13 Trustee  
130 W. Wilson Bridge Rd., #200  
Worthington, Ohio 43085-6300  
614-436-6700